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*Shannon Bowyer Hudson  
Counsel for ORS*

March 24, 2009

**VIA ELECTRONIC FILING**

Charles L.A. Terreni, Esquire  
Chief Clerk/Administrator  
Public Service Commission of South Carolina  
101 Executive Center Dr., Suite 100  
Columbia, SC 29210

Re: South Carolina Office of Regulatory Staff Correspondence to the Surface Transportation Board.

Dear Mr. Terreni:

Attached please find a copy of correspondence mailed on March 20, 2009 from the South Carolina Office of Regulatory Staff ("ORS") to Ms. Anne K. Quinlan, Secretary of the Surface Transportation Board ("STB"). ORS's letter addresses concerns regarding significant rail rate increases and requests assistance from the STB.

Parties to the 2009 fuel cost hearing dockets are also being copied with this correspondence since rail rates are treated as fuel costs and are passed to South Carolina ratepayers pursuant to the fuel cost statute, S.C. Code Ann. § 58-27-865. Although ORS is copying the parties to the 2009 fuel cost hearings, ORS is not treating the matter as isolated solely to 2009. ORS will keep the Commission informed of developments by copying the Commission and all parties to the corresponding fuel hearing docket.

Respectfully submitted,

Shannon Bowyer Hudson

Enclosure

cc: Madame Chairman Elizabeth B. Fleming  
Commission Vice-Chairman John E. Howard  
Commissioner Mignon L. Clyburn  
Commissioner David A. Wright  
Commissioner G. O'Neal Hamilton  
Commissioner Randy Mitchell  
Commissioner Swain E. Whitfield  
Dr. James Spearman  
Catherine D. Taylor, Esquire  
K. Chad Burgess, Esquire  
Mitchell Willoughby, Esquire  
Benjamin P. Mustian, Esquire  
Belton T. Zeigler, Esquire  
Scott Elliott, Esquire  
Damon E. Xenopoulos, Esquire  
E. Wade Mullins, III, Esquire  
Joey R. Floyd, Esquire  
Len S. Anthony, Esquire  
Garrett A. Stone, Esquire  
Michael K. Lavanga, Esquire  
Robert R. Smith, II, Esquire  
Thomas S. Mullikin, Esquire  
Catherine E. Heigel, Esquire  
Frank R. Ellerbe, III, Esquire  
Bonnie D. Shealy, Esquire



C. Dukes Scott  
Executive Director

**STATE OF SOUTH CAROLINA  
OFFICE OF REGULATORY STAFF**

1401 Main Street  
Suite 850  
Columbia, SC 29201

March 20, 2009

**VIA U.S. MAIL AND FACSIMILE**

Anne K. Quinlan  
Secretary of the Board  
Surface Transportation Board  
395 E Street, S.W.  
Washington D.C. 20423

RE: Rail Rates for Utilities in South Carolina

Dear Ms. Quinlan:

The South Carolina Office of Regulatory Staff ("ORS") is charged with representing the public interest in matters dealing with public utilities. Specifically, ORS is charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10(B) (Supp. 2008). The term "public interest" is defined by S.C. Code § 58-4-10(B) (1) through (3) as follows:

... 'public interest' means a balancing of the following:

- (1) concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;
- (2) economic development and job attraction and retention in South Carolina; and
- (3) preservation of the financial integrity of the state's public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

On an annual basis, ORS presents its findings and recommendations in separate hearings for each of three regulated electric generating utilities, in our state, before the Public Service Commission of South Carolina. ORS's review incorporates auditing of actual fuel expenditures as well as analyzing the succeeding 12 month projected fuel cost used in electric generation. As to coal specifically, this review includes both producer cost as well as transportation expenditures. The prudently incurred fuel costs are included in the regulated electric utilities base rates to be recovered from the South Carolina customers. Pursuant to South Carolina law, fuel costs include the cost of fuel transportation. *See*, S.C. Code § 58-27-

865 (Supp. 2008). These fuel transportation charges represent approximately one-third of the total delivered cost of coal.

We are increasingly concerned that the transportation rates for coal are escalating at percentages that vastly exceed most commonly used and accepted price escalators. As part of the annual fuel reviews, ORS has, for two of our regulated utilities, observed rail rate increases of between 50 and 100% on expiring five and ten year contracts, respectively. These rail rate increases will result in annual additional charges of over \$100,000,000 to South Carolina customers.

Utilizing the Gross Domestic Product Implicit Price Deflator ("GDP-IPD") index, on the other hand, results in an escalation of only 15% and 27% over the most recent 5 and 10 year periods.

We have also reviewed the escalation results of both the adjusted and unadjusted Rail Cost Adjustment Factor ("RCAF") over the same 5 and 10 year periods. This review indicates for the RCAF (Adjusted) the escalation results were 16% and 11% for the respective 5 and 10 year periods. The RCAF (Unadjusted) results in a 28% and 46% increase for the 5 and 10 year periods.

We are requesting the opportunity to discuss our findings with the appropriate members and staff of the STB and to obtain assistance from the STB and its staff regarding appropriate action for review of rail rates for captive shippers in South Carolina.

I would be most grateful if you would contact me by April 1, 2009. My telephone number is 803.737.0805 and my e-mail address is [cdscott@regstaff.sc.gov](mailto:cdscott@regstaff.sc.gov).

Thank you in advance for your time and attention to our request.

Sincerely,



C. Dukes Scott  
Executive Director  
South Carolina Office of Regulatory Staff

cc: The Honorable Thomas C. Alexander  
The Honorable Luke A. Rankin, Sr.  
The Honorable C. Bradley Hutto  
The Honorable Harry F. Cato, Speaker Pro Tempore  
The Honorable Harry L. Ott, Jr.  
The Honorable William E. Sandifer, Chairman  
The Honorable Lindsey Graham

**The Honorable Jim DeMint**  
**The Honorable Henry E. Brown Jr.**  
**The Honorable Joe Wilson**  
**The Honorable J. Gresham Barrett**  
**The Honorable Bob Inglis**  
**The Honorable John M. Spratt Jr.**  
**The Honorable James E. Clyburn**  
**Matthew T. Wallen, Director, Office of Compliance and Consumer Assistance (OCCA)**